

Message Text

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ACTION L-03

INFO OCT-01 ARA-16 ISO-00 SCA-01 JUSE-00 SS-20 NSC-10

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E. O. 11652: N/A

TAGS: PFOR CPRS BF

SUBJ: EXTRADITION - ROBERT L. VESCO - DAY THREE

1. SUMMARY: ARGUMENTS BETWEEN COUNSEL AND WITH MAGISTRATE OSADEBAY ARE BECOMING MORE HEATED. THE PACE CONTINUES TO BE SLOW, WITH VESCO ATTORNEYS RAISING EVERY CONCEIVABLE--AND SOME INCONCEIVABLE--ROADBLOCK. END SUMMARY.

2. THE MORNING SESSION OPENED WITH THE MINI-BATTLE OVER SEATING ARRANGEMENTS FOR US ADVISERS REPORTED IN NASSAU 1741. IT WAS THE SIGNAL FOR A SLIGHT RISE IN THE EMOTIONAL CLIMATE. MAGISTRATE OSADEBAY DISTRIBUTED HIS DRAFT OF A LETTER TO MIN-EXTAFF ADDERLEY ON THE QUESTION OF CONTINUED VALIDITY OF THE EXTRADITION TREATY AND ASKED FOR COUNSEL'S COMMENTS AFTER THE NOON BREAK.

3. WALLACE-WHITFIELD ASKED WHETHER THE US DOCUMENTS WERE TO BE CONSIDERED AS HAVING BEEN ACCEPTED INTO EVIDENCE YESTERDAY. MAGISTRATE REPLIED AFFIRMATIVELY AS TO THEIR FORM (PROPRIETY OF CERTIFICATIONS, ETC.) BUT SAID THAT EACH DOCUMENT IN THE PACKAGE WOULD HAVE TO BE READ INTO EVIDENCE WITH OPPORTUNITY FOR OBJECTIONS FROM VESCO. WHITFIELD BEGAN WITH READING OF WARRANT AND INDICTMENT, BOTH OF WHICH WERE ENTERED WITHOUT OBJECTION, ALTHOUGH VESCO LAWYER DUPUCH GAVE NOTICE HE WOULD LATER ATTACK INDICTMENT AS VOID FOR VAGUENESS.

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4. WHITFIELD THEN PROCEEDED TO READ AFFIDAVIT OF C. HENRY BUHL III CONCERNING VESCO'S PAYMENT OF \$50,000 TO HIM. DUPUCH RAISED NO OBJECTION TO AFFIDAVIT, BUT RAISED NEW ISSUE REGARDING SECOND BUHL AFFIDAVIT DATED NOV 12, 1973. HE SAID THAT SINCE DUTY OF "PROSECUTION" WAS TO SERVE INTERESTS OF JUSTICE RATHER THAN WIN CONVICTIONS, US SHOULD INTRODUCE SECOND BUHL AFFIDAVIT AS PART OF ITS CASE, DESPITE FACT IT ALLEGEDLY HURT US CASE. FAILURE OF US SIDE TO AGREE, DUPUCH SUGGESTED, WOULD CONSTITUTE SUPPRESSION OF EVIDENCE. WHITFIELD DISAGREED STRONGLY, POINTING OUT THAT HE HAD ALREADY INFORMED COURT OF THE EXISTENCE OF THE SECOND AFFIDAVIT BUT WAS UNDER NO OBLIGATION TO INTRODUCE WHAT WAS CLEARLY A DEFENSE DOCUMENT, OBTAINED BY VESCO, AS PART OF THE USG CASE. THE DISCUSSION BECAME A BIT DICEY, WITH THE MAGISTRATE ASKING WHITFIELD EXACTLY HOW LONG THE US ATTORNEY'S OFFICE IN NEW YORK HAD KNOWN THAT BUHL WAS CHANGING HIS TESTIMONY AND ENDING UP BY TELLING WHITFIELD THAT IF SUPPRESSION OF EVIDENCE OR OTHER MISCONDUCT HAD OCCURRED (OSADEBAY DENIED HE WAS SUGGESTING IT HAD), WHITFIELD WOULD BE DISBARRED. DUPUCH HELPFULLY NOTED HIS ASSURANCE THAT THE MAGISTRATE WOULD NOT BE INFLUENCED BY THE PRESENCE IN THE COURTROOM OF REPRESENTATIVES OF "THE MOST POWERFUL NATION IN THE WORLD," CLEARLY SUGGESTING HOW ENJOYABLE IT MIGHT BE TO SLING A FEW NEWLY INDEPENDENT BARBS AT UNCLE SAM. MAGISTRATE FINALLY ALLOWED DUPUCH TO READ THE SECOND BUHL AFFIDAVIT TO THE COURT WITH WHITFIELD'S PERMISSION, BUT REFUSED TO RULE THAT WHITFIELD SHOULD INTRODUCE IT IN EVIDENCE AND POSTPONED DUPUCH'S FORMAL INTRODUCTION OF IT UNTIL AFTER THE PROSECUTION'S CASE WAS CONCLUDED. COMMENT: OSADEBAY SEEMS LESS THAN CONVINCED BY WHAT HE HAS SEEN OF THE US CASE THUS FAR. HOWEVER, HIS PROCEDURAL RULINGS SEEM, TO EMBASSY REPRESENTATIVE, FAIRLY UNBIASED. MOST OF THE NEEDLING HE HAS INDULGED IN UP TO NOW APPEARS AIMED AT WHITFIELD PERSONALLY. WHITFIELD, FOR HIS PART, HAS ON OCCASION SHOWN BOTH IMPATIENCE AND ILL-CONCEALED AMUSEMENT AT THE MAGISTRATE'S SLOWNESS IN GRASPING LEGAL OR FACTUAL POINTS.

5. AFTERNOON SESSION BEGAN WITH THE QUESTION OF THE TREATY, DUPUCH AGAIN MAKING POINT THAT IT IS FOR THE COURT TO DECIDE IF A TREATY OBLIGATION EXISTS BY LAW. DUPUCH KEEPS TRYING TO LEAD MAGISTRATE TO PHRASE HIS LETTER TO ADDERLEY IN SUCH A LIMITED OFFICIAL USE

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WAY THAT THE REPLY WOULD BE OPEN TO ATTACK BY THE VESCO TEAM. TWO NEW POINTS RAISED BY DUPUCH WERE: (1) DID THE US PRESIDENT AND SENATE RERATIFY TREATY AFTER BAHAMIAN INDEPENDENCE; STATEMENT BY SECSTATE NOT GOOD ENOUGH, SINCE TREATY-MAKING POWER IN US RESTS WITH PRESIDENT AND SENATE AND (2) DUPUCH SUGGESTED TO MAGISTRATE THAT EVEN IF HE DID NOT CHOOSE TO RULE ON THE VALIDITY OF THE TREATY, IF IN HIS MIND THERE WERE ANY DOUBTS ABOUT ITS VALIDITY HE

WOULD HAVE TO RULE IN VESCO'S FAVOR AND DISMISS THE APPLICATION FOR EXTRADITION. CONTINUING ON THIS POINT, HE SAID THAT ANY DOUBT ON VALIDITY WOULD DEPRIVE HIS CLIENT OF PROTECTION OF THE TREATY PROVISION EXEMPTING HIM FOR PROSECUTION FOR INDICTMENTS OTHER THAN THE ONE FOR WHICH EXTRADITION IS SOUGHT. SOLICITOR GENERAL HILTON INTERJECTED ON BEHALF OF ATTORNEY GENERAL ADDERLEY THAT THE LATTER COULD ONLY REPLY THAT TREATY EXISTS. DUPUCH INSISTED ON REPLY WHICH STATES THAT THE US IS BOUND BY THE TREATY.

6. WALLACE-WHITFIELD WENT ON WITH THE READING OF THE AFFIDAVITS (NOW UP TO RICHARDSON'S) AND DUPUCH CONTINUES TO ATTEMPT TO HAVE SECTIONS RULED INADMISSIBLE AS HERESAY. (COMMENT: DUPUCH APPEARS TO BE SUCCESSFULLY CONVINCING OSADEBAY OF FORMER'S SUPERIOR KNOWLEDGE OF THE LAW AND IS CONTROLLING MUCH OF THE PACE AND DIRECTION OF THE PROCEEDINGS.

7. LOCAL PRESS COVERAGE OF THE HEARING HAS NATURALLY BEEN HEAVY. THE MORNING GUARDIAN'S COVERAGE HAS BEEN FAIRLY STRAIGHTFORWARD, WITH SOME DABS AT VESCO (PHOTOGRAPHS OF VESCO AND BODYGUARDS FLEEING REPORTERS WITH THE CAPTION "MAN ON THE RUN.") THE AFTERNOON TRIBUNE, OWNED BY ANOTHER BRANCH OF THE DUPUCH FAMILY, PLAYS UP STATEMENTS OF VESCO ATTORNEYS BUT IS GENERALLY EVEN-HANDED IN ITS FACTUAL INACCURACIES.

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